

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANTOWAINE WILBURN,

Plaintiff,

v.

STATE OF WASHINGTON,

Defendant.

CASE NO. C11-1468-JCC

ORDER

This matter comes before the Court on the Report and Recommendation of the Honorable James P. Donohue (Dkt. No. 9), to which there has been no timely objection. The Court, after careful consideration of the parties' submissions, the report and recommendation and the balance of the record, does hereby find and **ORDER**:

- (1) The Court ADOPTS the Report and Recommendation (Dkt. No. 9);
- (2) This habeas petition, whether construed under 28 U.S.C. § 2241 or § 2254, is DISMISSED with prejudice for lack of subject matter jurisdiction;
- (3) Petitioner is DENIED issuance of a certificate of appealability;
- (4) The application to proceed *in forma pauperis* is DENIED as moot; and

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2 (5) The Clerk of Court is directed to send copies of this Order to the parties and to
3 Magistrate Judge Donohue.

4 DATED this 29th day of November 2011.

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7 A handwritten signature in black ink, appearing to read "John C. Coughenour", is written over a horizontal line.

8 John C. Coughenour
9 UNITED STATES DISTRICT JUDGE
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